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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,284	12/29/2000	Min Zhu	M-8861 US	9176

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EXAMINER

SHAW, JOSEPH D

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 04/19/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/752,284

Applicant(s)

ZHU ET AL.

Examiner

Joseph D Shaw

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

Art Unit: 2141

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 6, 11, and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 7, and 10 of U.S. Patent No. 6,567,813. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitation of the communicating employing a secure protocol on a dedicated network is an obvious modification. Distributed and parallel computing environments frequently employ logical processes on separate nodes communicating over a dedicated network and communications via a secure protocol is well known in the art to ensure information is transmitted securely.

3. Claims 1, 6, 11, and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 9, and 13 of copending Application No. 09/752,376, claims 1, 7, 13, and 19 of copending Application No. 09/751,595, and claims 1, 5, 9,

Art Unit: 2141

and 13 of copending Application No. 09/751,519. Although the conflicting claims are not identical, they are not patentably distinct from each other because employing a secure protocol on a dedicated network is an obvious modification. Distributed and parallel computing environments frequently employ logical processes on separate nodes communicating over a dedicated network and communications via a secure protocol is well known in the art to ensure information is transmitted securely.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Specification***

4. The abstract of the disclosure is objected to because the abstract makes no reference to claimed subject matter. In particular, the claimed subject matter is related to partitioning collaboration functions into sub-functions and communicating amongst the sub functions securely. The abstract appears to be directed to a fault-tolerant collaborative computer system. Correction is required. See MPEP § 608.01(b).

#### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the secure protocol, encryption, compression, and TCP/IP messages employing a proprietary message syntax must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 2141

***Claim Objections***

6. Claims 4, 9, 14, and 19 are objected to because of the following informalities:

a. Claim is made to a TCP/IP message that employs a proprietary message syntax. This is a contradiction. A TCP/IP message has a well-defined message format that does not employ proprietary message formats for data communication. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

b. As per claims 1, 6, 11, and 16, while the specification teaches that the employed high-speed link offers higher security, the specification fails to teach secure protocols in general.

c. As per claims 2, 5, 7, 10, 12, 15, 17, and 20, the specification fails to teach the use of encryption.

d. As per claims 3, 5, 8, 10, 13, 15, 18, and 20, the specification fails to teach the use of compression.

e. As per claims 4, 9, 14, and 19, while the specification teaches a proprietary protocol transported over TCP connections, the

Art Unit: 2141

specification fails to teach TCP/IP messages employing a proprietary message syntax.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 4, 6, 9, 11, 14, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (6,185,695).

f. As per claim 1, Murphy teaches a distributed system (collaborative computing environment) comprising:

partitioning a collaboration function into sub-functions (kernel and user domains; col. 3, lines 54-62);

assigning at least one of said sub-functions to each of a plurality of logical processes (each node has one or more domains; Fig. 1; col. 3, lines 54-62);

associating a respective management process with each of said plurality of logical processes, said logical processes configured so that each said logical process is capable of communicating with every other said logical process through said respective management process (objects can be invoked by a thread within a domain in another node; col. 4, lines 10-14; object request broker (ORB) handles remote procedure calls for objects requested in a remote domain, on the same node or different nodes; col. 4, lines 22-30);

Art Unit: 2141

communicating between said logical processes using said respective management process (objects can be invoked by a thread within a domain in another node; col. 4, lines 10-14; object request broker (ORB) handles remote procedure calls for objects requested in a remote domain, on the same node or different nodes; col. 4, lines 22-30); and

monitoring said respective management processes with a single supervisor process (replica manager system process will detect failures when nodes are unresponsive and initiates a chain of events to have client nodes try a secondary server to complete the object invocation request; col. 4, line 56 - col. 5, line 9).

However, the Murphy invention does not explicitly teach the communications being employed by a secure protocol over a dedicated network. "Official Notice" is taken that both the concept and advantages of both secure protocols and dedicated networks were well known and expected in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Murphy invention to employ a secure protocol over a dedicated network for communications because secure protocols prevent unauthorized individuals from hijacking data that is being communicated and a dedicated networks ensures that all resources on the network are being employed for the communication of the data and not being wasted performing other activities.

g. Claims 6, 11, and 16 recite similar limitations to claim 1 and are rejected on the same grounds as claim 1.

Art Unit: 2141

h. As per claim 4, Murphy discloses the invention modified above. However, the modified invention does not explicitly teach the secure protocol comprising TCP/IP messages employing a proprietary message syntax. "Official Notice" is taken that both the concept and advantages of both TCP/IP and proprietary message syntaxes were well known and expected in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include TCP/IP messages and a proprietary message syntax in the modified Murphy invention because TCP/IP is a well known and commonly used transport protocol for data communication and proprietary message syntaxes ensure that only people authorized by the developer to use the proprietary messages can understand the messages.

i. Claims 9, 14, and 19 recite similar limitations to claim 4 and are rejected on the same grounds as claim 4.

11. Claims 2-3, 5, 7-8, 10, 12-13, 15, 17-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (6,185,695), as applied to claims 1, 6, 11, and 16 above, and further in view of Derfler et al. (How Networks Work).

j. As per claim 2, Murphy discloses the invention modified above. However, the modified invention does not explicitly teach the secure protocol comprising encryption. Derfler teaches using encryption in data communications (page 207, paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the encryption taught by Derfler



Art Unit: 2141

in the modified Murphy invention because encryption, in practical terms, keeps all data communicated between networked devices totally private, as taught by Derfler (page 207, paragraph 1).

k. Claims 7, 12, and 17 recite similar limitations to claim 2 and are rejected on the same grounds as claim 2.

l. As per claim 3, Murphy discloses the invention modified above. However, the modified invention does not explicitly teach the secure protocol comprising compression. Derfler teaches using compression in data communications (page 207, paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the compression taught by Derfler in the modified Murphy invention because compression acts as a primitive form of encryption, wherein it takes a lot more effort to hijack compressed data, as taught by Derfler (page 207, paragraph 1).

m. Claims 8, 13, and 18 recite similar limitations to claim 3 and are rejected on the same grounds as claim 3.

n. As per claim 5, Murphy discloses the invention modified above. However, the modified invention does not explicitly teach the secure protocol comprising encryption and compression. Derfler teaches using encryption and compression in data communications (page 207, paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the encryption and compression taught by Derfler in the modified Murphy invention because encryption,

Art Unit: 2141

in practical terms, keeps all data communicated between networked devices totally private and compression acts as a primitive form of encryption, wherein it takes a lot more effort to hijack compressed data, as taught by Derfler (page 207, paragraph 1).

However, the modified invention does not explicitly teach the secure protocol comprising a proprietary message syntax. "Official Notice" is taken that both the concept and advantages of proprietary message syntaxes were well known and expected in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a proprietary message syntax in the modified Murphy invention because proprietary message syntaxes ensure that only people authorized by the developer to use the proprietary messages can understand the messages.

o. Claims 10, 15, and 20 recite similar limitations to claim 5 and are rejected on the same grounds as claim 5.

#### **Conclusion**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D Shaw whose telephone number is 703-305-0094. The examiner can normally be reached on Monday - Thursday and alternate Fridays, 7am - 4pm.


13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2141

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph Shaw  
Examiner  
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